

J.,

Exhibit “B.”

5. The original executed Release was mailed to defense counsel by first class mail on October 8, 2019. A copy of said enclosure letter is attached as Exhibit “C.”

5. Pa.R.C.P. 229.1(c) states, in relevant part, “If a plaintiff and a defendant have entered into an agreement of settlement, the defendant shall deliver the settlement funds to the attorney for the plaintiff ... within twenty calendar days from receipt of an executed release.”

6. Pursuant to Pa.R.C.P. 126, “The rules shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which they are applicable. The court at every stage of any such action or proceeding may disregard any error or defect of procedure which does not affect the substantial rights of the parties.”

7. Reading Rules 229.1, 440(b) and 126 together, the settlement draft was due to be delivered to counsel for plaintiff by Monday, October 28, 2019.

8. Even allowing the customary “three days for mailing,” the settlement funds should have been delivered no later than Thursday, October 31, 2019.

9. It is now almost two months since Plaintiff’s executed Release was mailed to defense counsel.

10. Pa.R.C.P. 229.1(e) states, in relevant part, “A plaintiff seeking to impose sanctions on the defendant shall file an affidavit with the court attesting to non-payment.”

11. The applicable interest rate for purposes of this Affidavit is 6.5% (Prime rate on January 2, 2019 plus one percent). See Pa.R.C.P. 238, Addendum to Explanatory Comments, a copy of which is attached as Exhibit "D."


12. At the applicable interest rate, interest is calculated at \$63.22/day as follows:

$$(\$355,000.00 \times .065)/365 = \$63.22$$

13. My usual and customary hourly fee is \$450/hour.

WHEREFORE, it is respectfully requested that this Honorable Court enter the attached Order directing PrimeCare Medical, Inc and their insurance company, Beazley USA Services Inc., pay forthwith interest at the rate of 6.5% (\$63.22/day) on the aforementioned settlement funds from October 31, 2019 to the date of delivery of the settlement funds, together with \$450 in attorneys' fees.

Respectfully submitted,


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Date: 12/4/19